

REMARKS

This Response is offered in reply to the Office Action mailed January 11, 2001.

Applicant appreciates and acknowledges allowance of claims 11-38.

In paragraphs 3 and 4 of the office action, claims 1, 3-10, and 39 are rejected under 35 USC 102(a) in view of the Huber US Patent 6 130 516.

This rejection is believed to be in error. The examiner argues that Huber teaches the claimed monitoring device and refers particularly to a seal between a checking element (pin holder) 32 and a housing 16 in the area between reference numeral 28 and reference numeral 30 wherein that area allegedly abuts on the checking element (pin holder) 32 and on the end face of the housing 16.

The examiner is believed to have misconstrued the Huber patent. In particular, the Huber '516 patent discloses a double lip seal 28 for sealing the passage of the shaft 26 through the face-sided cover of the housing 16 against chips and coolant (see patent column 2, lines 64-67) and O-rings seals 30 for sealing the respective face-sided cover of the housing 16 (see patent column 2, line 67 through column 3, line 1).

The area between reference numerals 28 and 30 referred to by the examiner as a seal in actuality comprises one end (i.e. one of the so-called face-sided covers) of the housing 16. In particular, at column 2, lines 64-67, Huber expressly states (1) that the double lip seal 28 "seals the passage of the 26 through the face-sided cover of the housing 16 against chips and coolant" and (2) that "O-ring seals 30 seal the respective face-sided cover of the cylindrical housing 16". That is, the area between seals 28, 30 in actuality must be the face-sided cover of the housing 16 that is expressly described as being sealed by seals 28, 30 and that is shown in enclosed marked-up Figures 1 of the Huber US patent and corresponding German patent document DE 43 10 872 A1 as being

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threadably secured at cooperating threaded regions R in the housing 16. As a result, Applicant believes the examiner has misconstrued the express description of the Huber patent.

At column 3, lines 1-5, the Huber patent expressly states that the pin holder 32 "is clamped via set screw 36 on the stump of the shaft 26 that projects beyond the housing 16". In the Huber patent, there is a space between the area between reference numerals 28, 30 referred to by the examiner (which actually is the face-sided cover of the housing) and the checking element (pin holder) 32 in order to allow the checking element to be pivoted by the motor 20. The examiner's allegation that the area between reference numerals 28, 30 abuts the housing 16 and the checking element 32 is incorrect. The Huber device is described at column 2, lines 64-67 such that the area must be the face-sided cover of the housing 16 threaded into the housing and not a seal like that recited in Applicant's claims.

Reconsideration of the rejection of claims 1 and 39 is requested.

With respect to claim 3, the seals 28, 30 of the Huber patent are symmetrical about an axis but these seals 28, 30 are not arranged between the checking element (pin holder) 32 and the housing 16 and do not abut on both the housing and the checking element. As discussed above, the area between reference numerals 28, 30 must be the face-sided cover of the housing described at column 2, lines 64-67 and not a seal like that recited in Applicant's claims.

The same is true of claims 4 and 5. Reconsideration of the rejection of these claims is requested.

Applicant has amended claim 6 to recite that the seal is fixed on the checking element such that the seal rotates with the checking element relative to the housing.

As discussed above, the Huber patent expressly states (1) that the double lip seal 28 "seals the passage of the 26 through the face-sided cover of the housing 16 against chips and coolant" and

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(2) that "O-ring seals 30 seal the respective face-sided cover of the cylindrical housing 16". The seal 28 is fixed in position between the shaft 26 and the face-sided cover threaded into the housing 16. The seals 30 are fixed in position between the housing 16 and the face-sided cover threaded into the housing 16. Neither seal 28 nor seals 30 rotate(s) with the checking element (pin holder 32).

As discussed above, the area between reference numerals 28, 30 is the face-sided cover that is fixed in position by being threaded into the housing 16 and does not rotate with the checking element (pin holder) 32.

Reconsideration of the rejection of claim 6 is requested.

Reconsideration of the rejection of claim 7 is requested for the same reasons as set forth for claim 6.

With respect to claim 8, the examiner refers to reference numeral 32 as being a mounting element as set forth in claim 8. However, the Huber patent expressly states that reference numeral 32 designates the pin holder 32 that is rotated by motor 20. As discussed above, the area between seals 28, 30 in actuality is the face-sided cover of the housing 16 that is threaded into the housing and is expressly described as being sealed by seals 28, 30. This face-sided cover of the housing is not disposed on a mounting ring on the pin holder 32 and instead is part of the housing 16 as discussed above. Applicant does not understand how the area between seals 28, 30 (i.e. the face-sided cover of the housing) can be threadably mounted on the housing 16 as shown in the Huber patent and, at the same time, be mounted on the pivotable pin holder 32 as argued by the examiner. The examiner's argument flies in the face of the teachings of the Huber patent.

Reconsideration of the rejection of claim 8 is requested.

The same is true with respect to claim 9 which relates to an annular recess, which is shown for purposes of illustration as recess 66 in Applicant's Figure 1 formed about the mounting ring 64. No such annular recess is provided on the checking element (pin holder) 32 of the Huber patent.

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Similarly, the Huber patent does not disclose the features of pending claim 10 which recites that an outer diameter of the seal substantially corresponds to the diameter of the checking element. The seals 28, 30 of the Huber patent teach away from claim 10. As discussed above, the area between seals 28, 30 in actuality is the face-sided cover of the housing 16 that is threaded into the housing and sealed by seals 28, 30.

Reconsideration of the rejection of claim 10 is requested.

Applicant believes pending claims 1-10 and claim 39 are allowable along with pending claims 11-38, and action to that end is requested.

Entry of this amendment and allowance of the claims is requested.

Respectfully submitted,



Edward J. Timmer

Reg. No. 27,402

5955 W. Main Street

Kalamazoo, MI 49009

enclosures: marked up Figures 1 and Postal Card

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on February 11, 2003.



Edward J. Timmer